

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-1199.M5**

MDR Tracking Number: M5-04-3853-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 07-09-04.

The IRO reviewed office visits, chiropractic manual treatment and telephone call rendered from 08-07-03 through 10-20-03 that were denied based "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 08-04-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99080-73 for dates of service 08-18-03 and 10-20-03 denied with denial code V. These services are TWCC required reports and are therefore reviewed as fee issues. The requestor submitted relevant information to support delivery of service. Per the Medical Fee Guideline effective 08-01-03 reimbursement in the amount of **\$30.00** (\$15.00 X 2 dates of service) is recommended.

**ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set

forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 08-18-03 and 10-20-03 in this dispute.

This Findings and Decision and Order are hereby issued this 16<sup>th</sup> day of September 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

**MEDICAL REVIEW OF TEXAS**  
**[IRO #5259]**  
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**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

TWCC Case Number:	
MDR Tracking Number:	M5-04-3853-01
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	

August 27, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved

Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

#### CLINICAL HISTORY

Available information suggests that this patient reports experiencing a low back injury that occurred while at work \_\_\_\_ while unloading a truck. The patient presented later to his family physician Dr. H, DO, and was provided medications for pain and spasm. The patient later had an MRI performed on 06/25/02 suggesting early degenerative joint disease with small posterior disc protrusions and mild degenerative changes of the lumbar facet articulations. The patient was referred to another osteopath, Dr. G where he received additional medications and physical therapy. The patient apparently discontinues therapy with Dr. G and returns to work as a truck driver. Several months pass with no treatment when the patient presents to a chiropractor Dr. V on 02/14/03. Dr. V suspects right-sided disc herniation and requests myelogram with post myelogram CT on 02/19/03. No specific plan of treatment is provided for review. The patient apparently receives 'adjustments' to the lumbar spine but no specific notes; listings or clinical rationale for this treatment is provided for review. On 02/21/03 chiropractor requests aquatic therapy for a period of 4 weeks at 3x per week. The patient apparently continues with 'adjustments' and continues to work as a truck driver doing approximately 2300 miles per week. Though adjustments appear to be provided with each office visit, no change in condition or progressive improvement is recorded. Additional therapies provided at chiropractic office appear to 'increase' pain levels. Telephone consultation and peer review was made on 03/04/03 with another chiropractor suggesting that the patient undergo EMG/NCV studies to determine presence of radiculopathy. The patient is referred to a neurosurgeon, Dr. R, MD, on 03/10/03 who suspects right lumbar radiculopathy and orders high resolution CT and EMG of the right lower extremity. Epidural injections are discussed but declined by the patient. The patient also receives a referral for chronic pain evaluation and psych evaluation from treating chiropractor on 03/17/03. EMG/NCV study obtained 03/18/03 suggests no evidence of radiculopathy. CT study obtained 03/19/03 reveals mild disc protrusion at L5/S1 without dural sac or nerve root involvement. Epidural steroid injection is again requested on 03/31/03, this time,

supported by the patient. Chronic pain and psych evaluation appears to be made on 04/02/03 suggesting that the patient experiences "slight elevations of hypochondriasis, hysteria and manic episodes." It is suggested that he undergo 12 biofeedback sessions for pain management. An additional 24 sessions of cognitive behavioral therapy are also recommended. Patient begins ESIs on 04/15/03. The patient begins to report fainting episodes for which he is referred to his family physician for hypertension management. Second ESI is performed 05/05/03 and is reported to provide some relief. Another telephone consultation is made on 05/16/03 with another peer review doctor concerning ongoing request for Myelogram and post myelogram CT. Dr. V suggests that ESIs were not successful in reducing pain levels. Lumbar myelogram and CT was performed 05/28/03 suggesting 5mm disc herniation, which does not reach neural structures. Degenerative osteophyte formation is noted at L4/5 levels. A follow-up evaluation is made with Dr. R on 06/04/03 suggesting that the patient undergo lumbar facet injections. Patient's conditions remain relatively unchanged with chiropractic care and therapy. The patient is seen for functional capacity evaluation with Highpoint Rehabilitation on 07/17/03. Testing reveals that this patient shows signs of somatic preoccupation and symptom magnification with poor reliability in terms of patient effort. Follow-up with Dr. R suggests chronic pain syndrome with psychological/behavioral overlay.

The patient appears to continue with Dr. V for adjustments from 08/07/03 to 10/20/03 with no measurable improvement documented.

#### REQUESTED SERVICE(S)

Determine medical necessity for office visits (99212, 99213), chiropractic manual treatment (98940), and telephone call by physician (99371, 99372) for period in dispute 08/07/03 through 10/20/03.

#### DECISION

Denied.

#### RATIONALE/BASIS FOR DECISION

Medical necessity for these ongoing treatments and services (08/07/03 through 10/20/03) **are not supported** by available documentation. Ongoing manipulations/adjustments of this nature suggest little potential for further restoration of function or resolution of symptoms at one (+) year post injury, and do not reflect any progressive improvement of conditions. With doctor's and therapist's notes suggesting symptom magnification, hypochondriasis, hysteria and manic behavior present, an appropriate psychiatric evaluation would have been indicated prior to continuation of therapeutic intervention at these levels. In addition, 99371-99372 services are intended to identify telephone consultations of physicians to patients when no other E/M services are provided on the same date. It is unclear if

TWCC policy or fee guidelines allow this to be used for the purpose of telephone peer review for the purpose of coordinating medical management with other health professionals. Since the treating doctor requested services subject to peer review and preauthorization, it would appear that an additional charge for this service would be inappropriate.

1. Philadelphia Panel Evidence-Based Clinical Practice Guidelines on Selected Rehabilitation Physical Therapy, Volume 81, Number 10, October 2001.
2. Hurwitz EL, et al. The effectiveness of physical modalities among patients with low back pain randomized to chiropractic care: Findings from the UCLA Low Back Pain Study. *J Manipulative Physiol Ther* 2002; 25(1):10-20.
3. Bigos S., et. al., AHCPR, Clinical Practice Guideline, Publication No. 95-0643, Public Health Service, December 1994.
4. Harris GR, Susman JL: "Managing musculoskeletal complaints with rehabilitation therapy" [\*Journal of Family Practice\*](#), Dec, 2002.
5. Morton JE. Manipulation in the treatment of acute low back pain. *J Man Manip Ther* 1999; 7(4):182-189.
6. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Mercy Center Consensus Conference, Aspen Publishers, 1993.

The observations and impressions noted regarding this case are strictly the opinions of this evaluator. This evaluation has been conducted only on the basis of the medical/chiropractic documentation provided. It is assumed that this data is true, correct, and is the most recent documentation available to the IRO at the time of request. If more information becomes available at a later date, an additional service/report or reconsideration may be requested. Such information may or may not change the opinions rendered in this review. This review and its findings are based solely on submitted materials.

No clinical assessment or physical examination has been made by this office or this physician advisor concerning the above-mentioned individual. These opinions rendered do not constitute per se a recommendation for specific claims or administrative functions to be made or enforced.